



11 March 2016

Mr David Monk
Committee Secretary
Tax and Revenue Committee
House of Representatives
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Submission to the inquiry into the external scrutiny of the Australian Taxation Office

Taxpayers Australia Limited welcomes the opportunity to respond to this inquiry given the importance of ensuring adequate checks and balances are in place to monitor the work of the Australian Taxation Office.

Our organisation has been in existence since 1919 with a charter to ensure fairness and equity exists in the taxation system. This includes the need for the revenue authority to be held accountable for the way in which it collects funds and also engages with taxpayers and their intermediaries.

Existing levels of scrutiny must be maintained and, indeed, enhanced so that the ATO mirrors best practice in public sector governance. Any reduction in the existing checks and balances will inevitably lead to a decline in the public confidence in tax administration in Australia.

In March 2014, the Tax and Revenue committee noted in its *2013 Annual Report of the Australian Taxation Office* that the level of external scrutiny of the ATO at that time was appropriate. Nothing has changed in the intervening two years that require any dilution of the degree of monitoring of the ATO's operations. On the contrary, there are valid arguments for the expansion of scrutiny given the economic significance of the ATO's role.

The underlying rationale for this viewpoint is expressed below.

Need for scrutiny

Australian taxpayers fund government departments and statutory bodies. It is essential that checks and balances are in place so that the community is assured that collected funds are administered and spent in an appropriate manner.

The ATO as an organisation requires an enhanced level of scrutiny given the fiduciary responsibilities with which it is entrusted by the Commonwealth Parliament. The organisation is provided with a budget of \$3.45 billion to collect taxes from various groups of citizens within the Australian community and beyond. The most recent annual report of the Commissioner of Taxation states that the ATO collected \$432.3 billion in gross tax receipts. It also states the ATO engaged with this broad range of stakeholders:

- 880,000 employers
- 780,000 trusts
- 12.8 million individual taxpayers
- 2.9 million small business clients
- 1,400 large business groups
- 557,000 Self-Managed Superannuation Funds
- 55,000 Practitioners.

Activities of the ATO has an impact on all of these groups and, more broadly, 24 million Australians. Their conduct in every part of their operations merits a greater level of scrutiny than agencies that merely spend public funds.

Authorities with the responsibility to question the ATO's processes and procedures include the parliamentary committee, Senate Estimates, the Australian National Audit Office (ANAO) and the Inspector General of Taxation (IGOT). Each of these sources of scrutiny has a differing purpose but – taken collectively – they have one goal: to ensure that taxpayers are provided reasonable assurance that the ATO is operating efficiently and taxpayers are treated in a fair and equitable manner.

While existing processes are effective, they can be supplemented with additional measures. Current methods of scrutiny provide some transparency by which taxpayers can observe the outcomes of reviews of the ATO. Alterations to the current scope of scrutiny may end up dampening the effectiveness of the committees or organisation referred to above.

There is merit, however, in considering ways of strengthening some aspects of the scrutiny of the revenue authority. In particular the role of the IGOT needs to be strengthened in order for it to be more effective as an arbitrator in resolving administrative disputes. This is one area where Taxpayers Australia is experiencing the greatest level of concern from its constituency.

Strengthening the power of the Inspector General of Taxation

The IGOT plays a specific role in ensuring that the ATO's processes for dealing with its various stakeholders are best practice. Our members have generally commended the manner in which the IGOT has been handling both the systemic reviews and also the individual complaints that are lodged with the office.

Systemic reviews conducted by the IGOT are publicly released but relies on the goodwill of the ATO to implement any recommendations. Reliance on goodwill alone may be insufficient to bring about changes to systems and procedures required to improve the quality of service. We strongly believe there is merit in exploring the possibility of increasing IGOT's powers in order to ensure a higher degree of transparency and accountability that is required of the ATO.

Establishing a management board for the ATO

It is an emerging best practice for revenue authorities in major countries to have a board of directors to enhance the quality of governance and also provide an additional check and balance for the revenue collection process. The Commissioner of Taxation himself has noted that Australia should learn from overseas jurisdictions. A major difference in tax administration between Australia and other jurisdictions such as the United Kingdom, Canada and the United States is that these countries have boards to supervise the work of the Commissioner's equivalents.

While the structures in the USA, Canada and the UK vary in design, the underlying principle of ensuring the chief tax collector is held accountable is clearly present. A similar structure would provide the institutional check and balance on the work of the Commissioner and his team as well as assuring the community that the ATO is a well governed and run organisation.

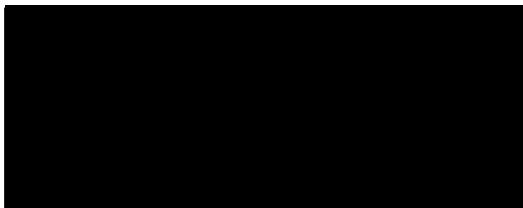
It is worth noting that the United States has a model that superimposes a board of directors over the head of the Internal Revenue Service (IRS). This is similar to a corporate structure of accountability and one that ought to apply to an entity that oversees the tax collection. The Commissioner of Taxation is effectively the chief executive officer of the ATO and he or she should report to a board of directors that is appointed to represent and enforce the public interest to which he or she is accountable.

Australian institutions such as the Australian Securities and Investments Commission, the Reserve Bank of Australia and the Australian Prudential Regulation Authority function with boards. There are even standard setters that report to a body that oversees their function in Australia and appoints their members. The Financial Reporting Council has the responsibility for overseeing the Australian accounting and audit standard setting. It would be entirely consistent with the approach taken in the case of the regulatory authorities outlined above for the ATO to have a board of directors to which the Commissioner is directly accountable in addition to the maintenance of existing measures of external scrutiny.

It should also be noted that the ATO has recently acquired law making powers in its own right. A board needs to be in place in order to have close scrutiny of the manner in which these powers are being exercised. A board made up of non-executive directors representing various stakeholders groups would be able to provide readily accessible feedback on the ATO's performance.

For further information regarding this submission please contact Tom Ravlic, manager – regulatory compliance, on either [REDACTED] or [REDACTED].

Yours Sincerely



Moti Kshirsagar

Chief Executive Officer

Taxpayers Australia Limited